



12 CFR Part 363

RIN 3064-AF77

Applicability of Annual Independent Audits and Reporting Requirements for Fiscal Years Ending in 2021; Correction

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the authority citation and regulatory text regarding the applicability of annual independent audits and reporting requirements for fiscal years ending in 2021, which was published in an interim final rule (IFR) on October 23, 2020.

DATES: This correcting amendment is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for instruction 3, which is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through December 31, 2021.

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SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 2020, the FDIC issued an IFR allowing insured depository institutions (IDIs) to determine the applicability of part 363 of the FDIC's regulations for fiscal years ending in 2021 based on the lesser of the IDI's (a) consolidated total assets as of December 31, 2019; or (b) consolidated total assets as of the beginning of their fiscal years ending in 2021.

Notwithstanding the temporary relief provided by the IFR, IDIs remain subject to any audit and reporting requirements applicable under other laws and regulations. Also, the FDIC reserves the authority to require an IDI to comply with one or more requirements under part 363 if the FDIC determines that asset growth was related to a merger or acquisition.

Need for Correction

This correcting amendment makes no change to the relief provided by the IFR originally published, but clarifies the authority citation and revises 12 CFR 363.1 by removing the temporary relief regarding the applicability of annual independent audits and reporting requirements for fiscal years ending in 2021 from paragraph (a) and adding the temporary relief into paragraph (e).

List of Subjects in 12 CFR Part 363

Accounting, Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the FDIC makes the following correcting amendment to 12 CFR part 363:

PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

1. The authority citation for part 363 is revised to read as follows:

Authority: 12 U.S.C. 1831m.

2. Amend § 363.1 by revising paragraph (a) to read as follows:

§ 363.1 Scope and definitions.

(a) *Applicability.* This part applies to any insured depository institution with respect to any fiscal year in which its consolidated total assets as of the beginning of such fiscal year are \$500 million or more. The requirements specified in this part are in addition to any other statutory and regulatory requirements otherwise applicable to an insured depository institution.

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3. Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through December 31, 2021, further amend § 363.1 by adding paragraph (e) to read as follows:

§ 363.1 Scope and definitions.

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(e) *Temporary relief.* (1) Notwithstanding paragraph (a) of this section and for all requirements in this part, with respect to any fiscal year ending in 2021, an insured depository institution's consolidated total assets shall be determined based on the lesser of an insured depository institution's consolidated total assets as of December 31, 2019, or an insured depository institution's consolidated total assets as of the beginning of its fiscal year ending in 2021.

(2) Until December 31, 2021, the FDIC reserves the authority to require an insured depository institution to comply with one or more requirements under this part if the FDIC determines that asset growth was related to a merger or acquisition.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on November 16, 2021.

James P. Sheesley,

Assistant Executive Secretary.

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